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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,560	01/25/2001	Michael Benjamin Ronci		5145

7590 04/17/2002

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EXAMINER

VERBITSKY, GAIL KAPLAN

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 04/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 2859

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garmaise et al. (U.S. 5678925) [hereinafter Garmaise] in view of Okuyama (U.S. 3125984).

Garmaise discloses a temperature sensor (display) fixedly attached on the outside wall of a beverage mug and being integral with the mug.

Garmaise does not disclose the particular display claimed by applicant and the mug being made of ceramics. Garmaise does not disclose that the display has a plurality of segments.

Okuyama a thermochromic thermometer (display/ sensor to be attached to a container to be exposed to an elevated temperature, the thermometer is opaque at ambient temperature and becomes transparent when it is exposed to the elevated temperature revealing different segments indicating temperature that they are being exposed.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the temperature display disclosed by Garmaise with a thermochromic display, as taught by Okuyama, because both of them are alternate types of

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temperature sensing devices which will perform the same function if one is replaced with the other.

With respect to the particular material to make the mug, i.e., ceramics, the particular material to make the mug, absent any criticality, is only considered to be the “optimum” or “preferred” material that a person having ordinary skill in the art at the time the invention was made using routine experimentation would have found obvious to provide for the mug disclosed by Garmaise since this is very well known type of material commonly used to make mugs and cups, and since it has been held to be a matter of obvious design choice and within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use of the invention. *In re Leshin*, 125 USPQ 416.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 and not mentioned above disclose related devices.
4. Any inquiry concerning this communication should be directed to Examiner Verbitsky who can be reached at (703) 306-5473, Monday through Friday, 7:30 to 4:00.

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Any inquiry of general nature should be directed to the Group receptionist whose  
telephonenumber is (703) 308-0956.

GKV

March 21, 2002

/ Diego Gutierrez 

Supervisory Patent Examiner

TC 2800